IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1134 of 1986

Date of Decision: 20.4.2005.

PATEL SOMABHAI CHHAGANDAS SINCE DECEASED THRO'HIS HEIR &

Versus

RABARI NARANBHAI CHEHORBHAI

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for re

Appearance:

1. First Appeal No. 1134 of 1986
MR PK JANI for Appellants.
Mr. B.B. Shah for appellants.
NOTICE SERVED for Respondent No. 1-2
MR AK TRIVEDI for Respondent No. 3

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

Learned advocate Mr. P.K. Jani submits that the original appellants No. 1 and 2 being represented by him have died, therefore, power of attorney given in his favour ceased to exist, thereafter, learned advocate Mr. Bharat B. Shah appeared in the case on behalf of the heirs wherein by way of abundant caution, No Objection was granted by him. According to him, now, learned

advocate Mr. Shah will appear in this case.

Whether reporters of Local Papers may be allowed to see the Judgment?th r reporters of Local Papers may be allowed to see the Judgment?ther reporters of Local Papers may be allowed to see the Judgment?ther reporters of Local Pa ers may be allowed to see the Judgment?ther reporters of Local Papers may be llowed to see the Judgment?ther reporters of Local Papers may be allowed to s e the Judgment?ther reporters of Local Papers may be allowed to see the Judgm nt?ther reporters of Local Papers may be allowed to see the Judgment?ther re orters of Local Papers may be allowed to see the Judgment?ther reporters of L cal Papers may be allowed to see the Judgment?ther reporters of Local Papers ay be allowed to see the Judgment?ther reporters of Local Papers may be allow d to see the Judgment?ther reporters of Local Papers may be allowed to see th Judgment?ther reporters of Local Papers may be allowed to see the Judgment? her reporters of Local Papers may be allowed to see the Judgment?ther reporte s of

Through this appeal, award of the MACT (Aux.) Mehsana in MAC Case No. 192 of 1983 dated September 9, 1985 is challenged on the ground that the just compensation has not been awarded. Respondents have not challenged the award. Therefore, short question for examination is whether the claimants have been awarded just compensation in this case.

Deceased was 22 year old at the time of accident. He was employed with M/s. KV Traders (Exh.44), a private firm, earning Rs.7200.00 p.a. He was a bachelor, therefore, likely to marry in future. From perusal of para 16 of the impugned award, it appears that the compensation has not been assessed properly, therefore, modification is required in terms of the principles laid down in Shantibai and others v/s. Charan SIngh and others [1999(1) TAC 22 (SC)], Smt. Sarla Dixit and another v. Balwant Yadav and others [AIR 1996 SC 1274] and Ritaben alias Vanitaben and another v. Ahmedabad Municipal Transport Service and another [2000 ACJ 153].

Taking annual income of Rs.7200.00, monthly income is taken Rs.600.00. Therefore, compensation works out to Rs.1800.00[600+600+600] divided by 2=Rs.900.00 2/3rd (for family expenses after marriage)= Rs.300 x 12=Rs.3600 x 16=Rs.57,600.00 +Rs.5000.00 (Loss of Expectancy of life) + Rs.500.00 (damage to bicycle)+ Rs.1000.00 (Funeral Expenses)= Rs.64,100.00, total compensation. Claimant has already been awarded compensation of Rs.35,300.00. Therefore, enhancement of compensation shall be to the extent of Rs.28,800 (64,100-35,300).

Therefore, appeal is allowed. Award is modified to the extent that the claimant be paid enhanced compensation of Rs.28,800.00 (Rupees twenty eight thousand eight hundred only) with interest at the rate of 6% p.a. from the date of the application till the date of payment. Compensation be paid within two months. Parties to bear their own costs of this court.

[BHAWANI SINGH]
CHIEF JUSTICE

[H.K.RATHOD]
JUDGE

Vyas